

# Montana Newsletter

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# Legislative Study Committee Recommends Changes To Annexation Laws

The Legislature's Study Committee on Annexation held its final meeting and recommended seven bills to be introduced in the 1981 legislative session. During the last year and a half the committee has met to consider proposals for changes to Montana's annexation laws and held public hearings in Billings and Missoula. The final proposals approved by the committee would:

1. Eliminate the distinction between resident and non-resident freeholders. This bill would give all property owners within an area proposed for annexation the same rights in annexation proceedings, most important of which are the right of protest and a vote on the question of annexation.
  2. Provide to second and third class cities the same authority now available to first class cities to annex lands contiguous to their corporate boundaries.
  3. Assure that a municipality may annex only those areas which can be reasonably assumed to be used for orderly growth of the municipality. The bill would prohibit strip annexation, that is, using a narrow strip of land or a road right-of-way to connect a proposed area to the corporate limits. Areas separated by the width of a public roadway would still be considered contiguous to the city and could be annexed.
  4. Delete certain restrictions on annexation of land used for industry, manufacturing, mining, smelting, refining and transporation. The legislation would lift the current prohibition against annexation of these industrial lands under both the statute for annexing wholly surrounded lands and the statute for annexing by petition. The prohibition against annexation of agricultural land under either of those statutes would remain.
- Also proposed is deletion of the right of owners of industrial land to veto annexation of their land under the statute for annexation of contiguous lands.
5. Clarify that under all annexation procedures municipalities must provide services in accordance with plans prepared pursuant to section 7-2-4732 of the Planned Community Development Act. That section specifies the required plan for providing services.
  6. Provide municipalities with discretion to select which annexation procedure is most appropriate for each situation.
  7. Amend the Subdivision and Platting Act to provide for joint hearings and coordinated subdivision review and annexation procedures. Also, where a proposed subdivision is proposed to be annexed to a municipality, the municipal governing body shall hold joint

hearings on the preliminary plat and annexation.

8. Prescribe that land which has been shown on municipal plats or maps as being within municipal boundaries and on which municipal taxes have been paid without protest shall be conclusively presumed to be annexed.

The committee endorsed a concept that would provide for annexation of high density land under certain conditions. A municipality would be able to annex without protest contiguous land which has a density of not less than four dwelling units per acre where the municipality holds a hearing, prepares an economic impact statement, provides services and assures equitable representation for the residents of the area. The committee withheld final recommendation of the bill until language could be drafted to prevent the abuse of averaging high and low densities within an area to allow annexation of low density land without protest.

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pending at Helena, MT 59601.

We welcome responses to articles, reader letters and article suggestions. Permission to reprint material from MCN is hereby granted.

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Merle R. Lucas ..... 449-3702

## **Local Government Services**

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## **Research and Information Systems**

R. Thomas Dundas, Jr. .... 449-2896

# *DCA and State Health Department Schedule Fall Subdivision Seminars*

The Department of Community Affairs/Community Development Division will be presenting three one-day seminars in conjunction with the Department of Health and Environmental Sciences/Subdivision Bureau regarding Montana's subdivision laws during October, November and December. The seminars will begin at 9:00 a.m. and conclude at 4:30 p.m.

The morning session will begin with a presentation on the Montana Subdivision and Platting Act including a discussion of DCA's administrative rules, recent court decisions and attorney general's opinions, and local approaches to enforcement of the law and the local review process. The afternoon session will include a slide presentation by DCA staff on subdivision design and development standards which will be followed by a presentation by DHES staff on the Sanitation in Subdivisions Act and the department's administrative regulations. A slide presentation will be shown to portray recommended design standards for water supplies, sanitation facilities and surface drainage.

The first seminar will be held in Glendive on October 30th and is sponsored by the Dawson County Planning Board. For more information contact Ed Musser, Dawson County Planner, County Courthouse, Glendive, MT 59330, telephone 365-5029.

On November 19th the Departments of Community Affairs and Health and Environmental Sciences will co-sponsor a seminar to be conducted in Helena. For further information contact Ed Casne, Chief, Subdivision Bureau/DHES, telephone 449-3946 or Steve Granzow, Community Development Division/DCA, telephone 449-3757.

On December 2nd the Beaverhead County Planning board will sponsor a seminar at Western Montana College in Dillon. For additional information contact Lee Tuott, Beaverhead County Planner, County Courthouse, Dillon, MT 59725, telephone 683-4862.

The seminars are conducted without charge and are open to any interested planning board member, local official, surveyor or engineer, realtor or any member of the public. If you would be interested in arranging a seminar for your community contact either Ed Casne or Steve Granzow at the telephone number listed above.

# **Aeronautics Division Seeks Help Identifying Hazardous Powerlines**

During the 1979 legislative session the Montana Pilots Association was unsuccessful in its efforts to seek enactment of legislation which would have required that power companies adequately mark any hazardous powerlines. However, the Montana Power Company and Montana-Dakota Utilities have subsequently agreed to assist DCA's Aeronautics Division in identifying and marking any electrical transmission lines that may constitute a hazard for aircraft. The Division has advised the utilities regarding those hazardous lines of which it is aware and is also seeking comments and suggestions from the public regarding other hazardous lines which should be marked. Any person who is aware of a powerline that may pose a threat to airplanes is urged to contact either Mike Ferguson, Aeronautics Division Administrator or Jack Wilson, Safety and Education Bureau Chief at telephone: (406) 449-2506.

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## ***Governor's Interstate Indian Council Report Released***

Merle Lucas, State Coordinator of Indian Affairs, has announced the release of the proceedings of the 30th Annual Governor's Interstate Indian Tribal Conference which was held in Kalispell, Montana August 27-30, 1979. The conference was co-hosted by the Salish and Kootenai Tribes of the Flathead Reservation. The report includes transcripts of the panel discussions which considered a variety of remedial measures which can be used to improve the social and economic conditions of the Indian people. Topics addressed during the three day conference included legislative viewpoints on tribal-state relationships, water resources development, education, health, child welfare, and census plans for counting American Indians.

Founded in 1949, the Governor's Interstate Indian Council is composed of representatives appointed by the governors of 22 states who meet annually to consider various aspects of the problems confronting Indian people, to exchange information, and to recommend legislation or programs to respond to the problems faced by American Indians.

A limited number of copies of the report are being distributed to conference attendees and other interested persons. Copies will also be provided to the Montana State Library for distribution through the Interlibrary Loan Program.

For further information contact Merle Lucas, DCA/Indian Affairs Unit, telephone: (406) 449-3702.

# New Units Allocated To DCA's Moderate Rehabilitation Housing Program

The U.S. Department of Housing and Urban Development recently allocated 79 additional Section 8 Moderate Rehabilitation units to the Department of Community Affairs for use in the non-metropolitan areas of Montana (all counties other than Cascade or Yellowstone). The Section 8 "Mod Rehab" Program is designed to help rehabilitate rental housing units that need only moderate amounts of rehabilitation work done to bring them up to decent, safe, and sanitary conditions. Housing units with low-income tenants in residence or with vacant units are eligible for the program. Once a unit has been rehabilitated, the owner is guaranteed substantial rents over a 15 year period to repay his rehabilitation costs if he continues to rent to low-income families. Eligible lower-income families living in the units slated for rehabilitation will receive rent assistance, as well as those families drawn from DCA's Section 8 Existing waiting list who are selected to fill vacant units. A participating family will pay no more than 25 percent of its adjusted income for rent and utilities, and the Department will make up the difference with a check sent directly to the landlord.

The additional units assigned to DCA were left over from allocations made elsewhere in Federal Region VIII during FY 80. The program is administered by the Housing and Community Facilities Bureau of DCA's Community Development Division. Annual contract authority reserved for Montana is now \$1,139,395 and provides for a total of 384 units; 150 to be used in the metropolitan areas and 234 to be used in the non-metropolitan portion of the state.

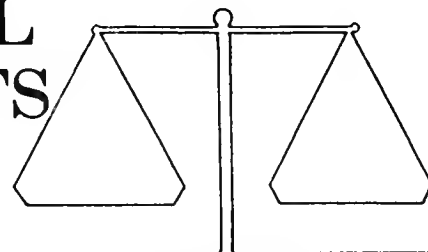
The Department subcontracts with localities who have experience in rehabilitation to handle the administration of the rehabilitation work itself. The following is a listing of the agencies and communities involved in the program and their current unit allocations:

Anaconda Community Development Agency  
22 units  
Billings Community Development Department  
50 units  
Butte-Silver Bow Community Development Dept.  
35 units  
Columbia Falls Community Development Corp.  
30 units  
Dillon Community Development Office  
27 units  
Great Falls Community Development Department  
100 units  
Helena Community Development Office  
20 units  
Kalispell Community Development  
20 units

Livingston Community Development Office  
40 units  
Missoula Community Development Office  
30 units  
Troy Community Development Office  
10 units

For further information on the program, contact Roger Pedersen, DCA Community Development Division, 449-2804.

## LEGAL BRIEFS



Attorney General Mike Greeley recently issued two opinions relating to the Montana Subdivision and Platting Act. The first of these (38 Op. Att'y Gen. No. 106) modifies and expands upon an earlier opinion concerning the validity of land transfers made in violation of the Act. The earlier opinion (35 Op. Att'y Gen. No. 65) held that contracts to convey land and deeds purporting to convey land are "void" if they have been executed in violation of the Act. The recent opinion, on the other hand, holds that illegal contracts and deeds are "voidable" rather than "void." A voidable instrument is effective unless challenged and set aside by the court, while a void instrument is an absolute nullity and conveys no rights under any circumstances.

Although the legal distinction between void and voidable instruments is a substantial one, DCA does not believe the new opinion will have a significant practical effect on the operation of the Act.

In the same opinion the Attorney General indicates that a local governing body cannot, by issuing an approval which, itself, is unauthorized, validate an illegal land transfer. Such transactions, Greeley notes further, may not be ratified retroactively but may be corrected only by first being voided and then properly reexecuted.

In a second opinion (38 Op. Att'y Gen. No. 108) Greeley has held that a plat of a city is not a "platted subdivision" for purposes of section 76-3-207(2), MCA, of the Subdivision Act. That section provides that the major exemptions from subdivision review are not applicable within platted subdivisions filed with the county clerk and recorder. Under this opinion unplatted land located within municipal boundaries may be divided through the use of exemptions.

★ ★ ★ ★ ★

The amendments to DCA's administrative's regulations adopted pursuant to the Montana Subdivision and Platting Act which were described in the September issue of the *Montana Community News* will take effect on October 17, 1980. Copies of the revised regulations will soon be available for distribution by the Department.

# Fixed Asset Accounting

We often hear various terms used when referring to the physical property used in local governments. Some speak of "capital assets", others refer to "inventory", and still others to "capital outlay". To put all readers on a common ground, the term "fixed assets" will be used to describe the land, buildings, machinery and equipment, and improvements other than buildings acquired and used by a local government.

It is certainly no secret that a majority of the governments in Montana do not maintain an adequate fixed asset system or fixed asset records. Many reasons are suggested for this, but probably the single largest reason is lack of motivation brought on by the following conditions: (1) governmental accounting primarily measures cost of services, therefore, determination of income is not a factor; (2) fixed assets are charged against expenditures when acquired and there is no need for cost allocation over the life of an asset; (3) absence of fixed assets will not negatively impact on the fair representation of General and Special Revenue Fund financial statements; (4) value of fixed assets does not serve as a basis for credit; and, (5) the inventory process is time consuming and always receives a low priority.

Improving control over your fixed asset system can be beneficial in several ways. First, it can help your government avoid a qualified audit opinion as to fixed assets. Second, a good fixed asset system provides useful management budget information to control capital expenditures and avoid duplicate expenditures for equipment. Furthermore, depreciation information is useful in determining reimbursement under Federal grant sponsored programs. In addition, fixed asset information also serves as a basis for an effective insurance program.

It is important to distinguish fixed assets from other property held by a governmental unit. A fixed asset should possess three attributes:

- (1) Tangible in nature
- (2) A useful life greater than one year
- (3) A significant value

The third criterion, significant value, is an area that frequently causes some difficulty. Significant value for fixed assets is subjective, and accordingly, it is necessary to exercise judgment in determining what items should be treated as fixed assets.

These judgments are minimized and controls improve once local government management establishes a capitalization policy. A capitalization policy should be established by resolution. This policy specifies the cost at which an item will be treated as an expense rather than a fixed asset. The amounts specified in a capitalization policy will vary depending upon the size of the

government, as well as type of property. When establishing a capitalization policy, DCA recommends that the following minimum values be used:

Land	All
Buildings	\$500.00
Machinery and Equipment	\$150.00
Improvements Other Than Property	\$500.00

Items purchased by the government which cost less than these values are not significant, and the time and expense required to maintain adequate fixed asset records is not justified.

Fixed assets should be maintained at original cost, or in the case of gifts, at the appraised value of the asset at the time it is received. In many instances, however, historical cost information is not available. In this case, it may be necessary to estimate the original cost of the asset based upon such documentary evidence as may be available, including price levels at the time of acquisition.

Establishing proper control over fixed assets involves the use of fixed asset ledgers to link the actual asset to the general ledger accounts. These fixed asset ledgers are an integral part of the accounting system and should reconcile to the general ledger control accounts. The fixed asset ledgers may be in a variety of forms, from computer files to index cards, depending upon the type of system you maintain. Regardless of the form of fixed asset ledger used, the following minimum information should be recorded for each asset:

- (1) Code classification
- (2) Date of acquisition
- (3) Name of vendor
- (4) Description of asset
- (5) Location of asset
- (6) Cost
- (7) Warrant/claim number
- (8) Identification number
- (9) Fund from which purchased
- (10) Method of acquisition
- (11) Estimated life

A effective fixed asset system is a valuable management tool that, if set up properly, requires little maintenance effort and can provide a great deal of beneficial information to the decision making process. An inventory process to establish an initial set of fixed asset records will be discussed in a future article.

For more information regarding the use of fixed asset accounting in your government, contact Tom Farrell, DCA Local Government Services Division (449-3010).

# HUD "Small Cities" Preapplication Deadline Approaching

Close to seventy persons attended the September 17 HUD workshop in Helena on the Small Cities Program. Preapplications must be submitted to HUD by November 17, 1980. Funds are available for FY 1981 grants in the following categories:

1. Single purpose grants for one year programs not to exceed \$400,000
  - a. Metropolitan areas which include Yellowstone and Cascade counties and incorporated areas outside of Billings and Great Falls \$329,000
  - b. Non-metropolitan areas which includes all other units of general local government in Montana 3,113,000
2. Comprehensive grants for up to three year programs not to exceed \$1,700,000 or one year programs not to exceed \$850,000. 1,370,000

Eligible activities for Small Cities grants include the full range of public facilities, housing rehabilitation, and acquisition of housing sites. Projects must resolve severe community problems and directly benefit low and moderate income persons defined by HUD as persons with annual incomes of \$13,100 or less.

Preapplication forms and instructions are available from Ed Atencio or Keith Burdick at the HUD office in Denver, telephone (303) 837-4666 or from Ann Mulronev, Community Development Division, telephone 449-3757.

DCA will be happy to visit communities to discuss possible projects and review and comment on preapplications. Several survey forms are available from DCA to provide documentation for proposed activities. They are described in an article on page 9.

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## Pre-Applicants for HUD Small Cities Grants May Not Claim Fair Housing Points

The August 1980 regulations for the CDBG Small Cities program provided pre-applicants the opportunity to claim 15 points for "active enforcement of a fair housing ordinance at least equivalent in scope and coverage to Title VIII of the Civil Rights Act of 1968." Local governments are not authorized to adopt fair housing ordinances. The Montana Fair Housing Law specifically delegates enforcement to the state Human

Rights Commission. This limitation would require local governments to adopt a fair housing *policy* which established an information service and a referral service to the state Human Rights Commission rather than a local ordinance in order to claim the 15 points for their Small Cities pre-application. However, the HUD General Counsel has determined that Montana's Fair Housing Law is not substantially equivalent to Title VIII and has notified the Montana Human Rights Commission of this ruling. The ruling will prohibit local governments from developing fair housing programs which comply with state statutes and meet the HUD Small Cities regulations. All pre-applicants will be affected by this ruling, therefore, there will be no impact on the point system for ranking pre-applications. The Human Rights Commission has prepared amendments to Montana's Fair Housing Law to bring the law into compliance with Title VIII. Communities are urged to support this effort so local fair housing programs can be established in Montana and such programs can be recognized in the competition for Small Cities grants and other federal programs which include similar provisions. Additional information on the Human Rights Commission proposed legislation is available from the Commission, Suite 300, 616 Helena Avenue, Helena, telephone 449-2884.

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## *New EDA Representative Assigned to Montana*

Miki Laws, the EDA representative in Montana for several years has taken a 90-day medical leave of absence to undergo medical treatment in California. All of us in DCA wish her well and will miss her a great deal. Replacing Miki on an interim basis will be Cornelius Grant, the EDA representative in North Dakota. Cornelius may be reached at Box 1911, Bismarek, North Dakota, 58502, telephone 255-4011, extension 321.

The Economic Development Administration offers financial assistance to eligible counties principally for business development and public works which support such development. A planning process which results in an Overall Economic Development Plan is required prior to project approval. Opportunities with EDA have been limited in the past couple of years because of the inability of Congress to reach agreement on new program legislation which would emphasize the business development programs and put less money into the public works program. As a consequence the agency has been operating on a continuing resolution basis with no inflation adjustment in its spending authority.

DCA will sponsor a meeting with Cornelius and eligible counties and EDA district organizations when the 1981 continuing resolution is adopted. The status of applications in the EDA pipeline and opportunities for additional applications will be the focus of the meeting.



# *Fifty Agencies Apply for Elderly and Handicapped Transit Funds*

Tom Lythgoe  
Transit Assistance Bureau  
Community Development Division  
Montana Department of Community Affairs  
Capitol Station  
Helena, MT 59601  
Telephone: (406) 449-3757

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The Department of Community Affairs/Transit Assistance Bureau has announced that it has received over 50 preapplications for the Urban Mass Transportation Administration 16(b)(2) program for this year's funding cycle. Approximately 350 agencies throughout the state were notified of the availability of funds. The program provides capital assistance funding on an 80 percent federal - 20 percent local match basis for eligible private, nonprofit organizations to purchase small transit vehicles and related equipment for the purpose of transporting Montana's elderly and handicapped citizens. Since the program's inception in 1975 approximately 65 vehicles have been placed in communities throughout the state.

Dick Howell, Transit Assistance Bureau Chief said the 16(b)(2) preapplications will be screened for applicant eligibility. Eligible applicants will then receive a full application which, when completed and returned to the Bureau, will be submitted to a state selection committee which ranks all applicants. The committee is composed of representatives from the Montana Departments of Community Affairs, Institutions, and Social and Rehabilitation Services, as well as persons representing the elderly and handicapped. Ranking criteria include:

- The number of elderly and handicapped to be served by the program;
- the extent to which the project is coordinated with existing systems of public transportation;
- the degree to which the proposal is coordinated to meet the combined transportation needs of elderly and handicapped programs in the area;
- the extent to which the program will serve the needs of the elderly and handicapped in outlying areas; and
- the extent to which the program proposes to provide transportation to medical, nutrition and other essential services which would be otherwise be unavailable.

Agency applications receiving the highest priority ranking will then be submitted to the Urban Mass Transportation Administration of the U.S. Department of Transportation for funding approval.

For further information concerning the 16(b)(2) program contact:

## *Board of Housing Seeks Info*

The Montana Board of Housing seeks information from local governments on their housing needs for the next year and the near future. The Board desires to develop a continuing information process through which they may anticipate the amount and types of housing they might finance. Working with the Department of Community Affairs, Community Development Division, the Board will develop a coordinated information procedure intended to provide current information on local housing needs, demands and governmental plans.

As a state housing finance agency, the Board provides lower interest financing for single and multiple unit housing developments throughout Montana. The Board has provided \$225,000,000.00 through their single family mortgage purchase programs and \$22,000,000.00 through their multiple family or elderly housing program. The Board issues revenue bonds to secure private investor funds, and in turn, provides the funds locally through approved lending institutions.

The Board requests local governments to provide information on their needs and plans for the coming year, and any supplementary information such as site locations, zoning and other pertinent information. The most important information needed by the Board are the housing needs expressed by Elderly, Family and Large Family (6+ members); single family and multiple family units by family type; and some indication of availability of sites, proper zoning, water and sewer services, and citizen interest. Local governments may request help to file more extensive information with the Department of Community Affairs, such as approved Community Development and Housing Assistance Plans, Comprehensive Plans, or similar documents, the salient elements of which would then be provided to the Board.

Information should be sent to Mr. Herb George, Montana Board of Housing, 2001 11th Avenue, Helena, Montana, 59601. Mr. George's telephone is (406) 449-3040. Alternatively you may send information, or request assistance from Kent Mollohan, Department of Community Affairs, 1424 9th Avenue, Helena, Montana, 59601; telephone (406) 449-2804.

# Nine More Counties Released in Land Use Mapping Project

DCA's Community Development Division has received maps of nine more counties prepared through the Statewide Cooperative Land Use Mapping Program. The latest maps for Daniels, Dawson, Golden Valley, Granite, Judith Basin, Lake, Musselshell, Petroleum, and Wibaux bring to twenty-two the total of Montana County maps available for public distribution. Previously published were those for Broadwater, Carbon, Cascade, Deer Lodge, Hill, Lewis and Clark, Mineral, Missoula, Park, Pondera, Powell, Silver Bow, and Teton Counties.

The full-color maps show ten different categories of land use for each county: urban and built-up areas; mineral extraction areas, heavy industry and utility areas; rural and suburban tracts; irrigated cropland; hayland and pastureland; non-irrigated cropland; recreational areas; rangeland; commercial forest and forest cover areas. The scale of the maps is one-half inch to the mile.

Nine state and federal agencies and three corporations are working with the DCA on the mapping project, including the Montana Departments of Fish, Wildlife and Parks, Health and Environmental Sciences, Highways, Natural Resources and Conservation, and State Lands; the U.S. Agriculture Stabilization and Conservation Service, Bureau of Indian Affairs, Bureau of Land Management, Forest Service and Soil Conservation Service; as well as Burlington Northern, Champion Timberlands, and St. Regis Paper Company. Map



drafting is done by the Cartographic Bureau of the Department of Natural Resources. The maps are printed by the Soil Conservation Service at its regional cartographic facilities in Portland, Oregon.

Copies of the maps just published will be sent to the office of the appropriate county commission or county planning board, and county office of the U.S. Soil Conservation Service, for free distribution to the public. Maps of each of the counties previously published may be obtained without charge at these same offices in those thirteen counties.

Copies of the published county maps and the map legend may be ordered directly from DCA's Community Development Division with the accompanying order form.

DCA Community Development Division  
Capitol Station  
Helena, MT 59601

In order to cover the costs of mailing please enclose \$1.00 for the first map and legend ordered and \$.25 for each additional map or legend included in the same order. (Make checks payable to Montana Department of Community Affairs.)

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_ Zip Code \_\_\_\_\_

## No. Ordered

\_\_\_\_\_ Broadwater

\_\_\_\_\_ Carbon

\_\_\_\_\_ Cascade

\_\_\_\_\_ Daniels

\_\_\_\_\_ Dawson

\_\_\_\_\_ Deer Lodge

\_\_\_\_\_ Golden Valley

\_\_\_\_\_ Granite

\_\_\_\_\_ Hill

\_\_\_\_\_ Judith Basin

\_\_\_\_\_ Lake

\_\_\_\_\_ Lewis and Clark

\_\_\_\_\_ Mineral

\_\_\_\_\_ Missoula

\_\_\_\_\_ Musselshell

\_\_\_\_\_ Park

\_\_\_\_\_ Petroleum

\_\_\_\_\_ Pondera

\_\_\_\_\_ Powell

\_\_\_\_\_ Silver Bow

\_\_\_\_\_ Teton

\_\_\_\_\_ Wibaux

\_\_\_\_\_ Map Legend

\$ \_\_\_\_\_ Total Enclosed

# Survey Forms Available From the Community Development Division

Model surveys in several topic areas are now available from the Community Development Division. The surveys have been developed for local governments to provide the focus for planning and community development programs and the supporting documentation for federal program applications. Following is a brief description of their contents and applicability.

*The Community Attitudes Survey* asks for respondent views on the overall quality of life in the community, on the quality of community services and facilities, on the local economy and housing preferences. It is designed for completion by the respondent and can be mailed or delivered in person. Communities have had excellent response when the survey is collected in person, usually by a community group such as senior citizen organizations or boy scouts. Questions requesting the number and age of household members and a household income range are also included. This survey is particularly appropriate for planning boards and community development groups seeking indications of community interest in and support for program activities. The population information can provide documentation to support participation in weatherization, fuel assistance, and other programs administered by human resource development councils. The housing information requested will provide a general picture of housing condition from the perspective of the resident and can help a town decide whether to pursue rehabilitation or new construction assistance.

*The Survey for Structural Condition of Housing* will provide information about housing condition detailed enough to develop reasonable estimates for rehabilitation programs. It addresses public health and safety deficiencies which HUD and the Farmers Home Administration consider priority rehabilitation objectives. The survey is designed for completion by a non-resident of the structure from an exterior examination combined with either an occupant interview or the tax records on the property.

*The Downtown Survey* was developed to provide information on the characteristics of downtown businesses and expansion potential in the area. It can be adapted for any industrial, commercial or service area. Included are questions on employment, payroll, sales, space use, and financing needs. The expansion potential section will provide information on expansion attitudes, support for specific public programs and

the types of private sector expansion needed in the area. The survey is designed to be completed by the respondent. As with the attitude survey, the rate of response is higher when the forms are picked up in person.

For copies of the surveys please contact Ann Mulrone, Community Development Division, telephone 449-3757.

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## Western Montana College Will Host Resource Symposium November 14-15

Integrating efforts of business, scientific and political communities toward an approach to the nation's energy concerns will be the theme of a November 14-15 symposium "Man and His Resources," to be held at Western Montana College. The two-day program seeks to promote increased awareness and understanding of America's resource position from political, psychological and cultural standpoints. An innovative combination of speeches and discussion periods will be utilized throughout to encourage dialogue between speakers and audiences.

Heading a distinguished list of participants are Arizona Governor Bruce Babbitt, Montana Lieutenant Governor Ted Schwinden; Dr. Robert Euler, National Park Service anthropologist; President W.P. Schmechel, Montana Power Co.; and Dr. Peter Suedfeld, an internationally-acclaimed environmental psychologist from the University of British Columbia.

Gov. Babbitt's keynote address, "The Politics of Resource Use," will be presented Friday, Nov. 14, following a noon luncheon in the Lewis and Clark Room of WMC's Women's Residence Hall.

Babbitt will be introduced by Lt. Gov. Schwinden, who currently chairs the Montana Resource Committee.

Friday afternoon's program also features a 3 p.m. address, "Culture and the Environment," by Dr. Euler, who has developed and administered numerous resource programs throughout the U.S.

Friday evening's agenda will be focused upon a 7:30 lecture by Dr. Suedfeld, "The Challenge of Environmental Psychology."

Schmechel will conclude the symposium with his Saturday talk on "The Public Utilities' Role in Resource Use," opening at 10 a.m. in Room 114 of Western's Office-Classroom Building.

For further information on the symposium contact Mark Young, Western Montana College, Dillon, MT 59725, telephone: (406) 683-7343.

# Zoning Serves The Housing Needs Of ALL The People

By: George S. Freeman  
Planning Director, Billings, MT

Not long ago residents of a certain area of Billings were outraged to read in the local newspaper that a facility of the Montana State Prison System was to be located across the street from their school. In another location residents were concerned about an increasing number of "group" homes being located in their neighborhood. Other residents became concerned about the change in use of a children's day care center to an adult day care center.

In all of these cases the Billings-Yellowstone City-Council Planning Office received the brunt of the complaints. All dealt with zoning. All asked the question, "How can they do it?" and made the statement, "This area is zoned residentially."

By definition, zoning is a separation of the municipality or county into districts, and the regulation of buildings and structures in the districts so created, in accordance with their construction and the nature and extent of their use. Zoning finds its place under the community power, commonly called police power, which is basic to law and order, health and safety, property protection and tranquility within a community.

The average property owner generally views zoning as a government regulation which either allows him to do something he wants to do or stops someone else from doing something which might effect his property. Thus it often comes as a rude surprise to the property owner that uses which he might consider detrimental are allowed in his neighborhood.

The police power carries with it a mandate for protecting the health, safety, and general welfare of all of the members of the community. Many of the residents of a community require the special care or attention provided in a group home or similar facility. The Montana State Legislature, as most State Legislatures, has given particular consideration to insuring that group homes can be located in settings which will be conducive to their successful operation.

The State enabling legislation for zoning specifically defines the relationship of foster homes, boarding homes, and community residential facilities to zoning. Such a facility is considered a residential use of property for zoning if the home provides care on a 24-hour-a-day basis. More specifically, the homes are a permitted use in all residential zones, including but not limited to residential zones for single-family dwellings. The homes generally must service eight or fewer persons to come under these statutes. The Statute also allows the City or County to require "a conditional use permit in order to maintain a home" . . . .

The Zoning Ordinance of the City of Billings, Montana and the Yellowstone County Zoning Regulations group these uses under the category of Rehabilitative Centers and defines them as "A use providing board and room, recreational, counseling and other rehabilitative services to individuals of either sex, who by reason of mental or physical disability, addiction to drugs or alcohol, or family and school adjustment problems require specialized attention and care in order to achieve personal independence. Individual participation in a work release, or similar program from a state institution, and under the supervision of a court, state or local agency shall be included within this definition."

Uses within that definition are allowed outright in two multi-family zones and require a Special Review in all other residential zones within the City of Billings. All the uses except orphanages and penal institutions, which require a special review, are allowed in all residential zones by Yellowstone County.

It has been the experience of the City-County Planning Office that rehabilitative centers, group homes, etc., are initially resisted by the surrounding property owners. However, the resistance has been reduced once the center operators and the property owners come together. Fear of the unknown is the major obstacle to overcome. Once that is surmounted and the facility is in operation there are few complaints from the adjacent properties.

Where it is required, the special review serves as a tool to minimize the possible impacts and to mitigate the concerns of both the operators and the property owners.

*Reprinted from the September, 1980, Western Planner.*

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## Sources of Preservation Funding

The U.S. Heritage Conservation and Recreation Service has recently updated its *Sources of Preservation Funding*. The publication summarizes new and revised federal programs and those of the National Trust for Historic Preservation that provide the funding to preserve historic properties or the planning for a specific preservation project. Information is also included on how to order other publications concerning funding. The purpose of the publication is to provide local preservationists with information about the preservation of historic properties and to stimulate federal agencies to demonstrate their commitment to preservation by allocating program funds to preservation projects.

*Sources of Preservation Funding* is available at no charge from the Planning Branch, Division of State Plans and Grants, Heritage Conservation and Recreation Service, 440 G Street, NW, Washington, DC 20243.

# *Publications of Interest*

## *The Western Planner*

This month's *Montana Community News* carries a reprint from *The Western Planner*. The magazine is the official publication of the statewide planning associations in Montana, North Dakota and Wyoming. South Dakota participates on the publication's editorial board through a representative from the South Dakota State Planning Bureau. The boards of the Colorado and Utah planning associations recently formally resolved to participate in the magazine as affiliates, while Arizona, Nevada and New Mexico are currently considering affiliation. *Western Planner* already counts planners from over 30 states among its subscribers.

Monthly issues (the first was January-February, 1980) are often devoted to specific themes; recent issues have focused on economic development in small communities, water planning, energy development, historic preservation, and parks and recreation planning. Regular features include news from each of the state associations, legal notes, book reviews, and columns on local, state, and regional planning issues.

Subscriptions for the ten annual issues are \$9 for individuals. Members of the Montana Association of Planners (MAP) receive *Western Planner* as part of their association dues.

For further information regarding *Western Planner*, interested persons may contact:

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Stan Steadman  
Western Coal Planning Assistance Project  
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Billings, MT 59101  
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## *Historic Preservation in Small Towns*

The harmony of life in America's small towns is often threatened by uncontrolled growth. The growing need for modern conveniences, roadways and parking, housing, and public facilities has sometimes caused destruction of the very things that make small towns desirable places.

*Historic Preservation in Small Towns — A Manual of Practice*, published recently by the American Associ-

ation of State and Local History (AASLH), takes a close look at this problem. The 146-page illustrated book is a guide for individuals in small towns faced with arousing local support for preservation activities. According to the authors the small-town preservationist must be able to sell the preservation idea to people who favor progress and individual property rights, and be able to promote alternatives that blend needs for the new with reverence for the old. Success depends on several important considerations. Community involvement must be a guiding force. Strategies should include a variety of approaches from establishing a nonprofit association to employing legal tools such as covenants and historic district zoning. Financing can encompass equivalents of money such as donated easements and volunteer services, as well as fund-raising projects such as capital drives and revolving funds. The adaptive use of large, downtown buildings, which is a key to stimulating private investment, should be based on imaginative thinking and sound marketing judgement.

According to one reviewer, "the book's virtue is in its clear, simple explanations of the preservationists' tools and in the way it interweaves general theory and references to practical sources."

*Historic Preservation in Small Towns* is available in paperback for \$8.95 from the American Association for State and Local History, 1400 Eighth Avenue South, Nashville, TN 37203.

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## *A Process for Community Flood Plain Management*

The U.S. Office of Water Research and Technology has published a new planning manual which describes a process for development and installation of a flood plain management program at the community level. The manual, *A Process for Community Flood Plain Management*, is designed to help communities with the practical application of flood plain management concepts. These concepts, as well as a number of flood-related terms, are explained and information is included on obtaining and using technical and financial assistance for communities without a full-time planning staff. Included in the manual is an example situation which shows how a hypothetical community would apply the process. This manual, No. PB-80-135296, is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151.

*Continued on next page . . .*

## ***Rural and Small Town Planning***

A new planning book entitled *Rural and Small Town Planning* was recently published by the American Planning Association. The text is the result of a manual prepared by APA's research division for the Old West Regional Commission. A number of experienced planners from the region served as advisors to the project and were instrumental in shaping the content and style of the book through their ideas, examples and suggestions.

The book is about planning in rural areas and is written for the staff planner new to local planning. It focuses on the five states of the Old West Region — Montana, Nebraska, North Dakota, South Dakota and Wyoming. However, because the APA felt the book would be useful to rural planners in many other states as well, it sought and received permission to publish and distribute *Rural and Small Town Planning* as a national textbook.

The book emphasizes that the rural planner must be a resourceful and skilled technician tackling a wide range of problems with limited resources. Just as important, the planning must be politically astute and responsive to the needs of the people the planner serves. In rural planning the trick is to do what works best: to innovate, to improvise, to rely on common sense.

The 300 page book covers general plan preparation, implementation tools such as subdivision regulations, zoning and development permitting, as well as planning techniques for community facilities and services, transportation and housing.

DCA's Community Development Division distributed copies of the book to each of Montana's 36 community planning directors without charge. Copies have also been provided to the Montana State Library for distribution to local libraries through the Inter-library Loan Program. The Division will also provide a copy of *Rural and Small Town Planning*, upon request, to any planning board interested in receiving one. The Old West Regional Commission will have a limited supply of the books that it will distribute upon request. The Commission's regional office is located at 201 Main Street, Suite D, Rapid City, SD 57701.

## ***Planning Cities***

By Frederick H. Bair, edited by Virginia Curtis

1970. 499 pp. Bair's classic text, just reissued, is both a general planning reader and a reference work. The book is a collection of Bair's work over the years and grows from his experience on the action fronts of planning. In the foreward, the editor writes:

"The book ranges from the abstract (principles and policies) to the concrete (how to draft a minor street plan) . . . It is meant to meet the needs of those who are where the action is—members of planning and zoning staffs and planning board members, members of boards of adjustment, elected and appointed public officials, and citizens interested in planning and related fields."

*Planning Cities* may be ordered from the American Planning Association, 1313 E. 60th St., Chicago, IL 60637. \$9.95, \$7.95 for APA members.

## ***The Language of Zoning: A Glossary of Words and Phrases***

By Michael J. Meshenberg

Planning Advisory Service Report #332. 1976. 40 pp. \$7. *The Language of Zoning* explains zoning terminology in simple language. This reference report is more than just a dictionary. It is also a zoning primer that should be read as well as used for reference. It clarifies terms, explains concepts and practices, eliminates inaccuracies, and editorializes, where necessary, about good and bad zoning practices. Illustrations are included on almost every page to make the report even more useful.

Copies may be ordered from the American Planning Association, 1313 E. 60th St., Chicago, IL 60637.

3100 copies of this public document were published at an estimated cost of 22.4¢ per copy for a total cost of \$695.00, which included \$445.00 for printing by Creative Press of Helena, \$135.00 for assembly, labeling and sorting by Helena Rehabilitative Industries, and \$93.00 for postage.



# **Montana Newsletter**

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